

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

RICHARD R. CRAIN,
Petitioner,

v.

Case No. 13-CV-00296

JIM SCHWOCHERT,
Respondent.

DECISION AND ORDER

On March 15, 2013, pro se petitioner Richard Crain filed this application for a writ of habeas corpus under 28 U.S.C. § 2254. Pursuant to Rule 4, the magistrate judge gave the case prompt initial consideration and concluded that petitioner stated at least one cognizable constitutional claim. Petitioner has now filed a motion to appoint counsel to represent him in this case.

Although civil litigants do not have a constitutional or statutory right to counsel, the Criminal Justice Act, 18 U.S.C. § 3006A(a)(2)(B), authorizes a district court to appoint counsel for a petitioner seeking habeas relief under 28 U.S.C. § 2254. Appointment of counsel for habeas petitioners is within the district court's discretion and is governed by standards similar to those followed in civil cases with plaintiffs proceeding in forma pauperis. Wilson v. Duckworth, 716 F.2d 415, 418 (7th Cir. 1983); Jackson v. Cnty. of McLean, 953 F.2d 1070, 1071 (7th Cir. 1992). When confronted with a request for counsel, the district court must make the following inquiries: (1) has the indigent party made a reasonable attempt to obtain counsel or been effectively precluded from doing so; if so, (2)

given the difficulty of the case, does the indigent party appear competent to litigate it himself? Pruitt v. Mote, 503 F.3d 647, 654 (7th Cir. 2007) (en banc).

In this case, petitioner has made an effort to find counsel on his own, but he also appears to be competent to litigate this case because his pleadings so far have been detailed and clearly written. Therefore, I will deny the motion to appoint counsel. I will also deny petitioner's motion to proceed in forma pauperis because it is moot. Petitioner has already paid the \$5.00 filing fee for this action and no other fees are due at this time.

THEREFORE, IT IS ORDERED that petitioner's motion for leave to proceed in forma pauperis (Docket #11) is **DENIED AS MOOT**.

IT IS FURTHER ORDERED that petitioner's motion for appointment of counsel (Docket #12) is **DENIED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that petitioner shall have until **September 3, 2013** to file his reply to respondent's answer and brief in opposition to the petition.

Dated at Milwaukee, Wisconsin, this 1st day of August, 2013.

s/ Lynn Adelman

LYNN ADELMAN
District Judge